

MEMORANDUM OF POINTS AND AUTHORITIES.

I. CONTINUANCE OF THE TRIAL IS NECESSARY DUE TO THE NEED FOR FULL PRESENTATION OF THE CASE.

Due to the facts of the case, a continuance is necessary for the full presentation of the case.

The case of *United States v. Flynt*, 756 F.2d 1352 1358-1359, (9th Cir. 1984), explains that:

"We structure our review in accordance with four salient factors that appellate courts have considered when reviewing denials of requests for continuances. First, we consider the extent of appellant's diligence in his efforts to ready his defense prior to the date set for hearing. See, e.g., *United States v. Lustig*, 555 F.2d 737, 744 (9th Cir.), cert. denied, 434 U.S. 926, 98 S. Ct. 408, 54 L. Ed. 2d 285 (1977), cert. denied, 434 U.S. 1045, 98 S. Ct. 889, 54 L. Ed. 2d 795 (1978); *United States v. Brandenfels*, 522 F.2d 1259, 1263 (9th Cir.), cert. denied, 423 U.S. [**15] 1033, 46 L. Ed. 2d 406, 96 S. Ct. 564 (1975). Second, we consider how likely it is that the need for a continuance could have been met if the continuance had been granted. See, e.g., *United States v. Hernandez*, 608 F.2d at 746 (9th Cir. 1979). Third, we consider the extent to which granting the continuance would have inconvenienced the court and the opposing party, including its witnesses. See, e.g., *United States v. Shuey*, 541 F.2d 845, 847 (9th Cir. 1976), cert. denied, 429 U.S. 1092, 51 L. Ed. 2d 537, 97 S. Ct. 1103 (1977); *United States v. Charnay*, 577 F.2d 81, 84 (9th Cir. 1978); *United States v. Cueto*, 611 F.2d 1056, 1060 (5th Cir. 1980). Finally, we consider the extent to which the appellant might have suffered harm as a result of the district court's denial. See, e.g., *United States v. Long*, 706 F.2d 1044, 1053 (9th Cir. 1983); *United States v. Barrett*, 703 F.2d 1076, 1081 (9th Cir. 1983); *Powell v.*

United States, 420 F.2d 799, 801 (9th Cir. 1969); Lustig, 555 F.2d at 745, n.7. [Footnote omitted.]”

Here, a continuance is necessary under the facts of the case. Plaintiff is seeking a necessary continuance to prepare for hearing and the rest of the case, not a series of unnecessary continuances.

II. CONCLUSION.

Plaintiff requests at least a minimum of a one-month continuance of the Trial and all other dates, or in the alternative, a continuance of the Trial and all other dates that is necessary and convenient for the Court.

Dated this 12th day of April, 2007

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